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THE ROLE OF GOVERNMENT MEASURES AND COMPETITION AUTHORITIES IN SUPPORTING COMPETITION ENVIRONMENT IN THE SOUTHEASTERN EUROPE DURING COVID-2019 PANDEMIC

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Abstract: Competition policy is one of the most important tools that governments can use to develop resilient, inclusive and sustainable economy. It is also a vital tool to reduce inequality and strengthen societal trust. The COVID-19 crisis has increased the importance of competition policies for all the countries of the world. Without intervention of the state around 38% of the firms in 16 European countries have reported that they would lose liquidity during one-month measures of quarantine isolation. Thus, this paper discusses what measures can the government and competition authorities use to support the competition environment and recovery process in Eastern Europe during the COVID-2019 pandemic.

Key words: government measures, competition policy, competition authorities, COVID- 2019 pandemic, Southeastern Europe.

Introduction

The COVID-2019 pandemic has formed sensitive areas in the competition area. The lack of control over mergers puts a serious risk that short-term gains will result in long-term anti-competitive consequences. The COVID-19 crisis is likely to force many firms to leave the market or merge. Competition authorities should use their merger control powers to maintain competitive market structures and prevent an increase in market concentration and market power in a number of sectors, which can lead to higher prices, damage innovation and productivity and exacerbate inequality. Government procurement can be another sensitive area. Under normal circumstances public procurement authorities conduct tenders on a competitive basis, which allows them to obtain the most suitable goods, services and works under the optimal ratio of price and quality. Direct orders are generally strongly discouraged by procurement regulations in European countries, but they can be deemed necessary in cases of emergency or force majeure. In current paper, we have considered what measures of the government and competition authorities can support the competition environment and the recovery process in Eastern Europe during the COVID-2019 pandemic.

Economic impact of the COVID-2019 pandemic in the Southeastern Europe

While the coronavirus pandemic is causing a marked slowdown globally, there are a number of specific factors that have a particularly strong impact on the

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economies of Southeastern Europe. It is expected that exports from the region will fall due to lower demand and disruptions in value chains. Romania and Serbia are likely to be the hardest hit as their manufacturing industries are more closely integrated into global production and supply chains and contribute the most to their economies in terms of value added and employment. Tourism is also crumbling due to the sanitary aspects of the crisis. Albania and Montenegro will be particularly hard hit in this regard, given that tourism revenues exceed 20% of GDP in both countries (Guasti, 2020; OECD, 2021; Verschuur et al., 2021). At the same time, two of the region's most important financial resources are likely to collapse, which are FDI, which in recent years has contributed significantly to the economies of the Western Balkans and remittances, which account for 15% of the total GDP in Kosovo and about 10% in Bosnia and Herzegovina, Montenegro, Albania and Serbia (Kollias and Zouboulakis, 2020; Villafuerte et al., 2020, p. 19; Williams and Kayaoglu, 2020).

The vast majority of firms in the Western Balkans are SMEs. They generate about 65% of the total value added in the business sector and provide 73% of the total employment in the business sector. The COVID-19 pandemic put tremendous pressure on labor markets in the Western Balkans, exacerbating existing constraints such as high unemployment, especially youth unemployment, high levels of informal relationships and a steady outflow of skilled labor. In 2018, the average level unemployment in the six Western Balkan countries was approximately 17%, while employment in the informal sector was 37% for Albania, 19% for North Macedonia and 20% for Serbia (Georgieva Svrtinov, 2020; Schiffbauer and World Bank, 2020).

Governments can be challenged to ensure sufficient liquidity for the enterprises and to prevent a shock to supply and demand that can lead to the exit of efficient firms from the market. Government activities in this direction can take the form of the provision of grants, subsidies, bank guarantees and other state support. However, there is a risk of competition distortion.

Government support should be time-bound and delivered in a reasonable, transparent and predictable manner. Government support should be finished as soon as economic situation becomes stable. It should be noted that the time when government support stops, is critical. On the one hand, a premature end of aid can lead to bankruptcy of the companies and further weaken competition. On the other hand, an extended period of subsidies can lead some companies to rely on government support, thereby weakening incentives to compete and innovate.

Neutrality of government measures to support competition

The exit strategy of the government support system may include the introduction of incentives to reduce the volume of government assistance as soon as market conditions allow it. For example, the payment of a large remuneration for participation in the state recapitalization program or strict adherence to a dividend remuneration policy is effective and brings markets back to normal in a way that fosters competition.

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In case certain companies find themselves at a disadvantage, goods and services will no longer be produced by those of them which can do it in the most efficient way. This leads to higher prices as a result of the insufficient use of scarce resources, the use of inefficient production methods, or the refusal to introduce new and better technologies. Thus, the principles of competition neutrality increase the efficiency of the entire economy.

An example of a recommendation for the development of criteria to ensure that government interventions in the economy are neutral in terms of competition for the current emergency is the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, published by the European Commission on 19 March 2020 (European Commission, 2020). This document allows the EU countries to apply government aid rules to support their economies amid the outbreak of the COVID-19 pandemic in order to maintain sufficient liquidity for businesses of all types and support the continuity of economic activity during and after the crisis. The document provides for five types of assistance, including a scheme for providing companies with the funds in the amount of up to 800 thousand euros to meet their urgent liquidity needs, the issuance of government guarantees for bank loans and the provision of subsidized government loans.

As governments' attention shifts from urgent short-term action to long-term efforts to stimulating the process of economic recovery, there is a need to ensure competition in the markets. In a broader sense, when it comes to industrial policy, in the past few years, special attention has been paid to the targeted application of tools, focused on individual groups of enterprises or regions to solve certain problems related to innovation (International Trade Centre, 2020). These industrial policy directions, focused on addressing specific market disruptions, should continue to take precedence over traditional policies such as, for example, more flexible control over mergers and acquisitions. Keeping companies from competition can reduce their efficiency and their contribution to economic recovery. Markets should be open and not violate the neutrality of government interventions in the economy in terms of competition.

Government measures to maintain competition

Thus, based on the above-mentioned, the following governmental measures can promote efficient competition in terms of COVID-2019 pandemic:

- when planning market interventions, it is needed to seek and accept advice from competition authorities to ensure that support is necessary and appropriate for addressing market failures identified in a particular market as a result of the crisis. Government support should be transparent and temporary;
- carefully design any measures aimed at specific companies during critical period, by monitoring the situation, clearly target the measures taken to support the economy to solve the identified problem, taking into account the temporary nature of the measures. Avoid the situations

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in which assistance is provided on a selective basis only to those firms that were on the verge of bankruptcy or had serious structural problems before the crisis (Echebarria Fernández, 2021);

- develop a strategy for getting out of the state regulation regime at the stage of planning the measures to be taken, taking into account the recommendations of the competition authorities (Costa Font et al., 2020);
- provide adequate and transparent reimbursement of the costs to companies when the crisis creates a need to impose new obligations on them in the field of public services (OECD, 2020a, 2020b, 2020c).

At the same time, competition authorities should:

- assist the governments in the implementation of measures of state support for the economy by providing necessary materials and consultations, or, if they have the authority to do so, to agree on these measures in order to determine priorities in this area;
- provide views/advice to government on how to ensure equal conditions of functioning in the market and how to avoid distortions in the operation of the market mechanism by developing clear, generally accepted and objective rules applicable to all firms in the economy, in a particular sector of the economy, or in the region;
- strengthen government advocacy to explain the principles of competition that must be respected in order to make markets competitive after the crisis, which is critical for economic recovery. Competition authorities should advocate for industrial policies that are a competitive alternative to any planned government interventions;
- cooperate with relevant government authorities in other countries to ensure that internationally agreed approaches are developed to ensure equal conditions in the markets and to develop a common position on avoiding protectionist measures (Hove, 2020; Rakić, 2020);
- carefully analyze the activities of so called “crisis cartels” created in crisis conditions. Some companies may be willing to reorganize the market structure through the formation of “crisis cartels”, i.e., the conclusion of agreements between most or all competitors to reduce production and/or limit production capacity in order to increase the profitability of their activities and prevent new competitors from entering the market during a crisis. This can increase the likelihood of cartels forming during and after a crisis. The realities suggest that actions that lead to price collusion, production restrictions, or capacity cuts are extremely harmful for effective competition in the market and should be actively eliminated (De Stefano, 2020);
- carefully monitor any significant and rapid price increases. In the short term, this may include action to determine where and when prices have risen in the supply chain of goods, as well as taking temporary action

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or sending warnings to violators, if necessary, to immediately stop illegal actions;

- coordinate with consumer protection agencies or use own consumer protection authority to protect consumers from unfair pricing practices;
- use policy powers to identify risks associated with government price regulation, including distorting price signals that can stimulate production and weaken incentives to attract new firms to solve the problem of replenishment of commodity deficit;
- explain to business in a timely manner how the effectiveness of agreements between competitors will be considered. For example, open channels of quick access to provide advice on specific cases of cooperation, in particular those related to priority sectors of the economy in times of crisis, such as the supply of medical products and links in the food chain supplies. It is necessary to ensure that legal cooperation between competitors is justified and limited in time. This cooperation should not address basic constraints on competition such as price collusion (Cseres and Reyna, 2021; Omelchenko, 2020).

carefully analyze the rationale put forward to support the need for "crisis cartels" formation (Khalina and Vasileva, 2020; Mateev et al., 2021; Motta and Peitz, 2020).

The role of cooperation agreements between competitors

During a crisis, the scale of cooperation among competitors can increase as the companies can participate in joint scientific research. For example, in the field of medical research or in the joint production and sale of essential goods or in the production and processing of food or essential goods. During crisis shocks, such actions may be necessary to increase production of a product or to coordinate efforts in the provision of basic services. Governments can also encourage these actions. Collaboration between the competitors can truly improve consumer welfare by making more products more affordable, and most competition laws allow for collaboration between competitors when it increases efficiency and benefits for the consumers. However, competition authorities should ensure that such cooperation does not lead to competition restrictions, such as agreement in price setting. Moreover, competition authorities must ensure that any short-term cooperation between competitors does not last longer than is necessary to overcome the crisis.

Competition authorities can provide information to the government when it is considering the regulation of workers' rights when concluding a collective agreement as well as conducting analysis of whether the conditions of competition are in fact violated when concluding collective agreements between employees of companies, including those employed in the "gray zone", when they are facing the influence of monopsony. For example, the Norwegian government has, granted the transport sector a three-month temporary exemption from the rule that prohibited

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agreements between competitors and anti-competition actions under the Norwegian Competition Law (OECD, 2019).

Conclusions

The impact of the economic crisis caused by the COVID-19 pandemic on the structure of the markets is likely to be manifested through an increase in the level of concentration of resources in the markets, as some companies are experiencing financial difficulties and leave the market. In addition to the exit of some companies from the market, there is a tendency of increase in corporate mergers and acquisitions as the companies seek to strengthen their position by merging with financially healthier competitors. As a result, the government and competition authorities should carefully analyze certain urgent and critical mergers and acquisitions. Control over mergers and acquisitions can play a key role in avoiding transactions that can be damaging for a long time due to changes in the market structure. Therefore, competition authorities in the countries, especially those ones, which were hit by the crisis hard, such as the countries of Southeastern Europe, need to continue carefully analyzing mergers and acquisitions in order to find out whether transactions meet the accepted standards and can demonstrate that it is this form of protection that should really be applied. Otherwise, competition authorities run the risk of approving mergers and acquisitions, which will have a negative impact on the market structure in the long term.

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